

Sub E1
D1
cont

(c) screening the library to detect a recombinant herbicide tolerance nucleic acid that encodes an herbicide tolerance polypeptide, wherein expression of the herbicide tolerance polypeptide at effective levels in the cell renders the cell tolerant towards the herbicide.

D2

6. (twice amended) The method of claim 4, wherein the plurality of variant forms comprises allelic or interspecific variants of the gene.

D3

7. (twice amended) The method of claim 4, wherein the plurality of variant forms is produced by synthesizing a plurality of nucleic acids homologous to the gene.

D4

8. (twice amended) The method of claim 4, wherein the plurality of variant forms is produced by error-prone transcription of the gene or by replication of the gene in a mutator cell strain.

D5

11. (amended) The method of claim 4, wherein the herbicide is glyphosate.

D6

14. (twice amended) The method of claim 4, wherein the library of recombinant nucleic acids is present in a population of cells.

D7

19. (amended) The method of claim 18, wherein enhanced growth of the cell requires the expression of the herbicide tolerance polypeptide at effective levels in the cell.

D8

20. (amended) The method of claim 19, wherein enhanced growth of the cell requires a product of a reaction catalyzed by the herbicide tolerance polypeptide.

22. (amended) The method of claim 19, wherein the cells are an $AroA^-$ strain of bacteria, the herbicide is glyphosate, and the recombinant herbicide tolerance nucleic acid encodes a polypeptide that catalyzes the conversion of phosphoenolpyruvate plus shikimate-3-phosphate to 5-enolpyruvylshikimate-3-phosphate.

D9

23. (twice amended) The method of claim 4, the method further comprising screening the library for an additional activity that confers tolerance to an additional herbicide.

24. (twice amended) The method of claim 4, wherein the recombining is performed in a population of cells.

28. (twice amended) The method of claim 4, wherein the method further comprises:

D10

(d) recombining a recombinant herbicide tolerance nucleic acid detected in step (c) with an additional nucleic acid, wherein the additional nucleic acid is the same or different from the plurality of variant forms of a gene of step (a), to produce an additional library of recombinant nucleic acids; and

(e) screening the additional library to detect a recombinant herbicide tolerance nucleic acid that encodes an herbicide tolerance polypeptide, wherein expression of the herbicide

*D⁸
cont*
tolerance polypeptide at effective levels in the cell renders the cell tolerant towards the herbicide; and, optionally
repeating steps (d) and (e).

D⁹
30. (twice amended) The method of claim 4, wherein the library of recombinant nucleic acids is present in bacterial cells and the screening step comprises:

pooling a plurality of cells each comprising a separate member of the library produced in step (b);
screening the resulting pooled cells to detect a recombinant herbicide tolerance nucleic acid that encodes an herbicide tolerance polypeptide, wherein expression of the herbicide tolerance polypeptide at effective levels in the cell renders the cell tolerant towards the herbicide; and
isolating the recombinant herbicide tolerance nucleic acid.

D¹⁰
32. (twice amended) The method of claim 4, further comprising transducing the recombinant herbicide tolerance nucleic acid into a plant.

D¹⁰
33. (twice amended) The method of claim 4, further comprising transducing the recombinant herbicide tolerance nucleic acid into a plant and testing the resulting transduced plant for tolerance to an herbicide.

D¹¹
34. (twice amended) The method of claim 4, further comprising transducing the recombinant herbicide tolerance nucleic acid into a plant and breeding the plant with another plant strain of the same species, and selecting resultant offspring for tolerance to an herbicide.

D¹²
35. (twice amended) A library of recombinant nucleic acids made by the method of claim 4.

D¹¹
37. (twice amended) A recombinant herbicide tolerance nucleic acid made by the method of claim 4.

D¹²
61. (amended) The method of claim 4, further comprising isolating or recovering the recombinant herbicide tolerance nucleic acid.

D¹³
62. (new) The method of claim 4, wherein the gene is a *MurA* gene.
63. (new) The method of claim 62, wherein the gene is a bacterial *MurA* gene.
64. (new) The method of claim 63, wherein the bacterial *MurA* gene is selected from the group consisting of the genes corresponding to GenBank Accession Numbers M76452, Z11835, AF142781 and X96711.

Sub E2
65. (new) The method of claim 4, wherein the method further comprises: